

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JAYOANA O'KEEFE and
ANDREW O'KEEFE, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

STENNIS WALKER,

Respondent-Appellant,

and

HEATHER O'KEEFE and CHRISTOPHER
VARMADO,

Respondents.

UNPUBLISHED

December 18, 2007

No. 276569

Calhoun Circuit Court

Family Division

LC No. 99-000926-NA

Before: Murray, P.J., and Hoekstra and Wilder, JJ.

PER CURIAM.

Respondent¹ appeals as of right from the trial court order terminating his parental rights to the minor child, Andrew, pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Although it appears respondent adequately provided for Andrew's physical needs when he was an infant, Andrew's emotional and intellectual deficits were discovered after he was placed into foster care. During the year in care, Andrew made a great deal of progress while respondent took six months to establish his paternity, and at least four months to complete a psychological evaluation. By the time of the termination trial, respondent was refusing to participate in parenting classes and deliberating whether to undergo a substance abuse assessment. Based on this evidence, the trial court did not clearly err in its finding that clear and

¹ All references in this opinion to respondent refer to Stennis Walker. Heather O'Keefe appealed this matter in a separate docket, and an opinion concerning her appeal has been issued. *In re O'Keefe, Minors*, unpublished memorandum opinion of the Court of Appeals, issued September 18, 2007 (Docket No. 276532). Christopher Varmado did not appeal the trial court's order terminating his parental rights.

convincing evidence established the statutory grounds set forth in MCL 712A.1b(3)(g) and (j).² *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); MCR 3.977(J). The trial court also did not clearly err in the best interests determination since Andrew's special needs made it even more important that he receive consistent nurturing that was permanent. MCL 712A.19b(5).

Respondent's argument is a plea for more time and assistance from petitioner. He bemoans the sufficiency of services, arguing he should have been provided a full range of services from the start of the case. However, respondent did not establish his paternity until November 2006, nine months after adjudication, so petitioner was not required to provide him services,³ although DHS still made a case service plan for him that included parenting time and a psychological evaluation. During the proceeding, respondent never objected to this case service plan or sought other services. Lastly, when more services were offered to respondent after he established his paternity and completed a psychological evaluation, respondent either refused services, or was undecided whether to participate. Respondent had a year in which to improve his parenting skills. The delays in establishing his paternity and completing the psychological evaluation were undoubtedly caused in large part by respondent's intellectual limitations and were not attributable to petitioner. The need for prompt resolution in child protective proceedings is not a device intended to aid petitioner. Rather, it is made necessary by the children themselves, especially young children like Andrew, who develop and change at such a fast rate of speed that they cannot wait indefinitely while a parent decides whether to commit him or herself to the reunification process.

Affirmed.

/s/ Christopher M. Murray
/s/ Joel P. Hoekstra
/s/ Kurtis T. Wilder

² It was clear error for the trial court to base termination upon MCL 712A.19b(3)(c)(i), but this error was harmless because other statutory grounds warranted termination. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000); MCR 2.613(A). The only allegation made against respondent in the initial and amended petitions was that he was Andrew's father. This allegation was significant since respondent had not established his paternity at the time of the adjudication, and Andrew was left without any legal parent who was able and willing to care for him upon the incarceration of Andrew's mother. However, that was the sole allegation and the trial court clearly erred when it found that the adjudicating conditions included respondent's intellectual limitations, low parenting skills, possible substance abuse, and domestic violence history.

³ As a putative father for most of the proceeding, respondent was not a "parent" within the definition set forth in MCR 3.903(A)(7) and (17) and therefore, did not qualify to receive the services and case service plan outlined in MCL 712A.18f.